

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 488

Representatives Grendell, Galonski

Cosponsors: Representatives Seitz, Weinstein, Gross



A BILL

To amend sections 305.14, 309.09, 309.10, 1545.07, 1
2101.19, 2109.21, 2111.01, 2111.011, 2111.02, 2
2111.021, 2111.022, 2111.03, 2111.031, 2111.04, 3
2111.041, 2111.05, 2111.06, 2111.08, 2111.091, 4
2111.12, 2111.13, 2111.131, 2111.18, 2111.181, 5
2111.19, 2111.20, 2111.23, 2111.26, 2111.33, 6
2111.37, 2111.38, 2111.39, 2111.44, 2111.46, 7
2111.47, 2111.49, 2111.50, and 2303.201 and to 8
repeal sections 2111.07, 2111.15, 2111.34, 9
2111.35, 2111.36, and 2111.45 of the Revised 10
Code to make changes to the Guardianship Law and 11
to authorize a court of common pleas to employ 12
an attorney under certain circumstances to 13
provide legal services to the judge or court 14
officials. 15

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 305.14, 309.09, 309.10, 1545.07, 16
2101.19, 2109.21, 2111.01, 2111.011, 2111.02, 2111.021, 17
2111.022, 2111.03, 2111.031, 2111.04, 2111.041, 2111.05, 18
2111.06, 2111.08, 2111.091, 2111.12, 2111.13, 2111.131, 2111.18, 19

2111.181, 2111.19, 2111.20, 2111.23, 2111.26, 2111.33, 2111.37, 20
2111.38, 2111.39, 2111.44, 2111.46, 2111.47, 2111.49, 2111.50, 21
and 2303.201 of the Revised Code be amended to read as follows: 22

Sec. 305.14. (A) The court of common pleas or a division 23
of the court may employ legal counsel, as provided in section 24
309.09 of the Revised Code, at its choosing and without 25
competitive bidding as excepted in section 307.86 of the Revised 26
Code, and certified as for other public officials as provided by 27
law, to represent it in any matter of public business coming 28
before the court or in the prosecution or defense of any action 29
or proceeding in which that court's judge or official is a party 30
or has an interest, in the judge's or official's official 31
capacity. 32

(B) The court of common pleas, upon the application of 33
the prosecuting attorney and the board of county commissioners, 34
may authorize the board to employ legal counsel to assist the 35
prosecuting attorney, the board, or any other county officer in 36
any matter of public business coming before such board or 37
officer, and in the prosecution or defense of any action or 38
proceeding in which such board or officer is a party or has an 39
interest, in its official capacity. 40

~~(B)~~ (C) The board of county commissioners may also employ 41
legal counsel, as provided in section 309.09 of the Revised 42
Code, to represent it in any matter of public business coming 43
before such board, and in the prosecution or defense of any 44
action or proceeding in which such board is a party or has an 45
interest, in its official capacity. 46

~~(C)~~ (D) Notwithstanding division ~~(A)~~ (B) of this section 47
and except as provided in division ~~(D)~~ (E) of this section, a 48
county board of developmental disabilities or a public children 49

services agency may, without the authorization of the court of 50
common pleas, employ legal counsel to advise it or to represent 51
it or any of its members or employees in any matter of public 52
business coming before the board or agency or in the prosecution 53
or defense of any action or proceeding in which the board or 54
agency in its official capacity, or a board or agency member or 55
employee in the member's or employee's official capacity, is a 56
party or has an interest. 57

~~(D)(1)~~ (E)(1) In any legal proceeding in which the 58
prosecuting attorney is fully able to perform the prosecuting 59
attorney's statutory duty to represent the county board of 60
developmental disabilities or public children services agency 61
without conflict of interest, the board or agency shall employ 62
other counsel only with the written consent of the prosecuting 63
attorney. In any legal proceeding in which the prosecuting 64
attorney is unable, for any reason, to represent the board or 65
agency, the prosecuting attorney shall so notify the board or 66
agency, and, except as provided in division ~~(D)(2)~~ (E)(2) of 67
this section, the board or agency may then employ counsel for 68
the proceeding without further permission from any authority. 69

(2) A public children services agency that receives money 70
from the county general revenue fund must obtain the permission 71
of the board of county commissioners of the county served by the 72
agency before employing counsel under division ~~(C)~~ (D) of this 73
section. 74

Sec. 309.09. (A) The prosecuting attorney shall be the 75
legal adviser of the board of county commissioners, board of 76
elections, all other county officers and boards, and all tax- 77
supported public libraries, and any of them may require written 78
opinions or instructions from the prosecuting attorney in 79

matters connected with their official duties. The prosecuting attorney shall prosecute and defend all suits and actions that any such officer, board, or tax-supported public library directs or to which it is a party, and no county officer may employ any other counsel or attorney at the expense of the county, except as provided in section 305.14 of the Revised Code.

(B) (1) The prosecuting attorney shall be the legal adviser for all township officers, boards, and commissions, unless, subject to division (B) (2) of this section, the township has adopted a limited home rule government pursuant to Chapter 504. of the Revised Code and has not entered into a contract to have the prosecuting attorney serve as the township law director, in which case, subject to division (B) (2) of this section, the township law director, whether serving full-time or part-time, shall be the legal adviser for all township officers, boards, and commissions. When the board of township trustees finds it advisable or necessary to have additional legal counsel, it may employ an attorney other than the township law director or the prosecuting attorney of the county, either for a particular matter or on an annual basis, to represent the township and its officers, boards, and commissions in their official capacities and to advise them on legal matters. No such legal counsel may be employed, except on the order of the board of township trustees, duly entered upon its journal, in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the township fund.

Nothing in this division confers any of the powers or duties of a prosecuting attorney under section 309.08 of the Revised Code upon a township law director.

(2) (a) If any township in the county served by the

prosecuting attorney has adopted any resolution regarding the 110
operation of adult entertainment establishments pursuant to the 111
authority that is granted under section 503.52 of the Revised 112
Code, or if a resolution of that nature has been adopted under 113
section 503.53 of the Revised Code in a township in the county 114
served by the prosecuting attorney, all of the following apply: 115

(i) Upon the request of a township in the county that has 116
adopted, or in which has been adopted, a resolution of that 117
nature that is made pursuant to division (E)(1)(c) of section 118
503.52 of the Revised Code, the prosecuting attorney shall 119
prosecute and defend on behalf of the township in the trial and 120
argument in any court or tribunal of any challenge to the 121
validity of the resolution. If the challenge to the validity of 122
the resolution is before a federal court, the prosecuting 123
attorney may request the attorney general to assist the 124
prosecuting attorney in prosecuting and defending the challenge 125
and, upon the prosecuting attorney's making of such a request, 126
the attorney general shall assist the prosecuting attorney in 127
performing that service if the resolution was drafted in 128
accordance with legal guidance provided by the attorney general 129
as described in division (B)(2) of section 503.52 of the Revised 130
Code. The attorney general shall provide this assistance without 131
charge to the township for which the service is performed. If a 132
township adopts a resolution without the legal guidance of the 133
attorney general, the attorney general is not required to 134
provide assistance as described in this division to a 135
prosecuting attorney. 136

(ii) Upon the request of a township in the county that has 137
adopted, or in which has been adopted, a resolution of that 138
nature that is made pursuant to division (E)(1)(a) of section 139
503.52 of the Revised Code, the prosecuting attorney shall 140

prosecute and defend on behalf of the township a civil action to 141
enjoin the violation of the resolution in question. 142

(iii) Upon the request of a township in the county that 143
has adopted, or in which has been adopted, a resolution of that 144
nature that is made pursuant to division (E) (1) (b) of section 145
503.52 of the Revised Code, the prosecuting attorney shall 146
prosecute and defend on behalf of the township a civil action 147
under Chapter 3767. of the Revised Code to abate as a nuisance 148
the place in the unincorporated area of the township at which 149
the resolution is being or has been violated. Proceeds from the 150
sale of personal property or contents seized pursuant to the 151
action shall be applied and deposited in accordance with 152
division (E) (1) (b) of section 503.52 of the Revised Code. 153

(b) Division (B) (2) (a) of this section applies regarding 154
all townships, including townships that have adopted a limited 155
home rule government pursuant to Chapter 504. of the Revised 156
Code, and regardless of whether a township that has so adopted a 157
limited home rule government has entered into a contract with 158
the prosecuting attorney as described in division (B) of section 159
504.15 of the Revised Code or has appointed a law director as 160
described in division (A) of that section. 161

The prosecuting attorney shall prosecute and defend in the 162
actions and proceedings described in division (B) (2) (a) of this 163
section without charge to the township for which the services 164
are performed. 165

(C) Whenever the court of common pleas or a division of 166
the court employs legal counsel, as provided in division (A) of 167
section 305.14 of the Revised Code, to represent it in any 168
matter of public business coming before the court or in the 169
prosecution or defense of any action or proceeding in which that 170

court's judge or official is a party or has an interest, in the 171
judge's or official's official capacity, the judge specified in 172
this division shall enter upon the court's journal an order in 173
which the compensation to be paid for the legal services shall 174
be fixed. The compensation shall be paid from the county general 175
fund or another lawful court fund at the discretion of the 176
judge. When paid from the county general fund, attorney fee 177
invoices shall be submitted to the board of county commissioners 178
for review. The hourly compensation paid for legal services 179
under this division shall not exceed the highest hourly 180
compensation paid by the board of county commissioners for an 181
attorney other than the prosecuting attorney of the county to 182
represent the board or other county officials. The judge who 183
enters the compensation order shall be whichever of the 184
following is applicable: 185

(1) If legal counsel is employed to represent a judge, the 186
judge shall enter the order. 187

(2) If legal counsel is employed to represent a court 188
official, the judge of the court or, if the court has more than 189
one judge, the presiding judge of the court, shall enter the 190
order. 191

(D) Whenever the board of county commissioners employs an 192
attorney other than the prosecuting attorney of the county, 193
without the authorization of the court of common pleas as 194
provided in section 305.14 of the Revised Code, either for a 195
particular matter or on an annual basis, to represent the board 196
in its official capacity and to advise it on legal matters, the 197
board shall enter upon its journal an order of the board in 198
which the compensation to be paid for the legal services shall 199
be fixed. The compensation shall be paid from the county general 200

fund. The total compensation paid, in any year, by the board for 201
legal services under this division shall not exceed the total 202
annual compensation of the prosecuting attorney for that county. 203

~~(D)~~ (E) The prosecuting attorney and the board of county 204
commissioners jointly may contract with a board of park 205
commissioners under section 1545.07 of the Revised Code for the 206
prosecuting attorney to provide legal services to the park 207
district the board of park commissioners operates. 208

~~(E)~~ (F) The prosecuting attorney may be, in the 209
prosecuting attorney's discretion and with the approval of the 210
board of county commissioners, the legal adviser of a joint fire 211
district created under section 505.371 of the Revised Code at no 212
cost to the district, or may be the legal adviser to the 213
district under a contract that the prosecuting attorney and the 214
district enter into, and that the board of county commissioners 215
approves, to authorize the prosecuting attorney to provide legal 216
services to the district. 217

~~(F)~~ (G) The prosecuting attorney may be, in the 218
prosecuting attorney's discretion and with the approval of the 219
board of county commissioners, the legal adviser of a joint 220
ambulance district created under section 505.71 of the Revised 221
Code at no cost to the district, or may be the legal adviser to 222
the district under a contract that the prosecuting attorney and 223
the district enter into, and that the board of county 224
commissioners approves, to authorize the prosecuting attorney to 225
provide legal services to the district. 226

~~(G)~~ (H) The prosecuting attorney may be, in the 227
prosecuting attorney's discretion and with the approval of the 228
board of county commissioners, the legal adviser of a joint 229
emergency medical services district created under section 230

307.052 of the Revised Code at no cost to the district, or may 231
be the legal adviser to the district under a contract that the 232
prosecuting attorney and the district enter into, and that the 233
board of county commissioners approves, to authorize the 234
prosecuting attorney to provide legal services to the district. 235

~~(H)~~ (I) The prosecuting attorney may be, in the 236
prosecuting attorney's discretion and with the approval of the 237
board of county commissioners, the legal adviser of a fire and 238
ambulance district created under section 505.375 of the Revised 239
Code at no cost to the district, or may be the legal adviser to 240
the district under a contract that the prosecuting attorney and 241
the district enter into, and that the board of county 242
commissioners approves, to authorize the prosecuting attorney to 243
provide legal services to the district. 244

~~(I)~~ (J) The prosecuting attorney may be, in the 245
prosecuting attorney's discretion and with the approval of the 246
board of county commissioners, the legal adviser to the board of 247
trustees of a regional airport authority created under Chapter 248
308. of the Revised Code or the board of directors of a port 249
authority created under Chapter 4582. of the Revised Code under 250
a contract that the prosecuting attorney and the board of 251
trustees or board of directors enter into. If the regional 252
airport authority or port authority covers territory in more 253
than one county, the board of trustees or board of directors may 254
choose the prosecuting attorney with whom it enters into such 255
contract, with the approval of the board of county commissioners 256
of that county. The contract may provide for the payment of a 257
fee to the prosecuting attorney for legal services agreed to 258
under the contract. 259

~~(J)~~ (K) The prosecuting attorney may be, in the 260

prosecuting attorney's discretion and with the approval of the 261
board of county commissioners, the legal adviser to a regional 262
planning commission created under section 713.21 of the Revised 263
Code under a contract that the prosecuting attorney and 264
commission enter into. If the regional planning commission 265
covers a region in more than one county, the commission may 266
choose the prosecuting attorney with whom it enters into such 267
contract, with the approval of the board of county commissioners 268
of that county. The contract may provide for the payment of a 269
fee to the prosecuting attorney for legal services agreed to 270
under the contract. 271

~~(K)~~ (L) All money received pursuant to a contract entered 272
into under division ~~(D)~~, (E), (F), (G), (H), (I), ~~or (J)~~, or (K) 273
of this section shall be deposited into the prosecuting 274
attorney's legal services fund, which shall be established in 275
the county treasury of each county in which such a contract 276
exists. Moneys in that fund may be appropriated only to the 277
prosecuting attorney for the purpose of providing legal services 278
to a park district, joint fire district, joint ambulance 279
district, joint emergency medical services district, fire and 280
ambulance district, regional airport authority, port authority, 281
or regional planning commission, as applicable, under a contract 282
entered into under the applicable division. 283

~~(L)~~ (M) The prosecuting attorney shall be the legal 284
adviser of a lake facilities authority as provided in section 285
353.02 of the Revised Code. 286

Sec. 309.10. Sections 309.08 and 309.09 of the Revised 287
Code do not prevent a school board from employing counsel to 288
represent it, but when counsel is employed, the counsel shall be 289
paid by the school board from the school fund. Sections 309.08 290

and 309.09 of the Revised Code do not prevent a county board of
developmental disabilities from employing counsel to represent
it, but that counsel shall be employed in accordance with
division ~~(C)~~(D) of section 305.14 and paid in accordance with
division (A) (7) of section 5126.05 of the Revised Code.

Sections 309.08 and 309.09 of the Revised Code do not
prevent a board of county hospital trustees from employing
counsel with the approval of the county commissioners to bring
legal action for the collection of delinquent accounts of the
hospital, but when counsel is employed, the counsel shall be
paid from the hospital's funds. Sections 309.08 and 309.09 of
the Revised Code do not prevent a board of library trustees from
employing counsel to represent it, but when counsel is employed,
the counsel shall be paid from the library's funds. Sections
309.08 and 309.09 of the Revised Code do not prevent the
appointment and employment of assistants, clerks, and
stenographers to assist the prosecuting attorney as provided in
sections 309.01 to 309.16 of the Revised Code, or the
appointment by the court of common pleas or the court of appeals
of an attorney to assist the prosecuting attorney in the trial
of a criminal cause pending in that court, or the board of
county commissioners from paying for those services.

Sec. 1545.07. The commissioners appointed in accordance
with section 1545.05 or pursuant to section 1545.041 of the
Revised Code shall constitute the board of park commissioners of
the park district. Such board shall be a body politic and
corporate, and may sue and be sued as provided in sections
1545.01 to 1545.28 of the Revised Code. Such board may employ a
secretary and such other employees as are necessary in the
performance of the powers conferred in such sections. The board
may appoint a treasurer to act as custodian of the board's funds

and as fiscal officer for the park district. For the purposes of 322
acquiring, planning, developing, protecting, maintaining, or 323
improving lands and facilities thereon under section 1545.11 of 324
the Revised Code, and for other types of assistance which it 325
finds necessary in carrying out its duties under Chapter 1545. 326
of the Revised Code, the board may hire and contract for 327
professional, technical, consulting, and other special services, 328
including, in accordance with division ~~(D)~~ (E) of section 309.09 329
of the Revised Code, the legal services of the prosecuting 330
attorney of the county in which the park district is located, 331
and may purchase goods. In procuring any goods with a cost in 332
excess of fifty thousand dollars, the board shall contract as a 333
contracting authority under sections 307.86 to 307.91 of the 334
Revised Code, to the same extent and with the same limitations 335
as a board of county commissioners. In procuring services, the 336
board shall contract in the manner and under procedures 337
established by the bylaws of the board as required in section 338
1545.09 of the Revised Code. 339

Sec. 2101.19. (A) No probate judge or probate judge's 340
deputy clerk shall sell or offer for sale for more than one 341
dollar any merchandise to be used in connection with any 342
license, order, or document issued by the probate court, or make 343
any charge in connection with the issuance of any license, 344
order, or document except that specifically provided by law. 345

(B) All moneys obtained from the sale of merchandise to be 346
used in connection with any license, order, or document issued 347
by a probate court shall be paid by the probate judge or the 348
deputy clerk of the court into the county treasury. The moneys 349
shall be credited to a fund to be known as the probate court 350
conduct of business fund. The moneys so credited shall be used 351
solely for the conduct of the business of the probate court, 352

including the employment of legal counsel. Moneys used to employ 353
legal counsel pursuant to section 309.09 of the Revised Code 354
shall be reimbursed by the county general fund. 355

(C) Upon receipt of an order of the probate judge for the 356
payment of moneys from the fund for the conduct of the business 357
of the court, the county auditor shall draw a warrant on the 358
county treasurer for the amount of money specified in the order, 359
but not exceeding the balance of the moneys in the fund, which 360
warrant shall be made payable to the probate judge or another 361
person designated in the order. 362

Sec. 2109.21. (A) An administrator, special administrator, 363
administrator de bonis non, or administrator with the will 364
annexed shall be a resident of this state and shall be removed 365
on proof that the administrator is no longer a resident of this 366
state. 367

(B) (1) To qualify for appointment as executor or trustee, 368
an executor or a trustee named in a will or nominated in 369
accordance with any power of nomination conferred in a will, may 370
be a resident of this state or, as provided in this division, a 371
nonresident of this state. To qualify for appointment, a 372
nonresident executor or trustee named in, or nominated pursuant 373
to, a will shall be an individual who is related to the testator 374
by consanguinity or affinity, or a person who resides in a state 375
that has statutes or rules that authorize the appointment of a 376
nonresident person who is not related to the testator by 377
consanguinity or affinity, as an executor or trustee when named 378
in, or nominated pursuant to, a will. No such executor or 379
trustee shall be refused appointment or removed solely because 380
the executor or trustee is not a resident of this state. 381

The court may require that a nonresident executor or 382

trustee named in, or nominated pursuant to, a will assure that 383
all of the assets of the decedent that are in the county at the 384
time of the death of the decedent will remain in the county 385
until distribution or until the court determines that the assets 386
may be removed from the county. 387

(2) In accordance with this division and section 2129.08 388
of the Revised Code, the court shall appoint as an ancillary 389
administrator a person who is named in the will of a nonresident 390
decedent, or who is nominated in accordance with any power of 391
nomination conferred in the will of a nonresident decedent, as a 392
general executor of the decedent's estate or as executor of the 393
portion of the decedent's estate located in this state, whether 394
or not the person so named or nominated is a resident of this 395
state. 396

To qualify for appointment as an ancillary administrator, 397
a person who is not a resident of this state and who is named or 398
nominated as described in this division, shall be an individual 399
who is related to the testator by consanguinity or affinity, or 400
a person who resides in a state that has statutes or rules that 401
authorize the appointment of a nonresident of that state who is 402
not related to the testator by consanguinity or affinity, as an 403
ancillary administrator when the nonresident is named in a will 404
or nominated in accordance with any power of nomination 405
conferred in a will. If a person who is not a resident of this 406
state and who is named or nominated as described in this 407
division so qualifies for appointment as an ancillary 408
administrator and if the provisions of section 2129.08 of the 409
Revised Code are satisfied, the court shall not refuse to 410
appoint the person, and shall not remove the person, as 411
ancillary administrator solely because the person is not a 412
resident of this state. 413

The court may require that an ancillary administrator who 414
is not a resident of this state and who is named or nominated as 415
described in this division, assure that all of the assets of the 416
decedent that are in the county at the time of the death of the 417
decedent will remain in the county until distribution or until 418
the court determines that the assets may be removed from the 419
county. 420

(C) (1) A guardian of the estate shall be a resident of 421
this state, except that the court may appoint a nonresident of 422
this state as a guardian of the estate if any of the following 423
applies: 424

(a) The nonresident is named in a will by a parent of a 425
minor. 426

(b) The nonresident is selected by a minor over the age of 427
~~fourteen~~twelve years as provided by section 2111.12 of the 428
Revised Code. 429

(c) The nonresident is nominated in or pursuant to a 430
durable power of attorney under section 1337.24 of the Revised 431
Code or a writing as described in division (A) of section 432
2111.121 of the Revised Code. 433

(2) A guardian of the estate, other than a guardian named 434
in a will by a parent of a minor, selected by a minor over the 435
age of ~~fourteen~~twelve years, or nominated in or pursuant to a 436
durable power of attorney or writing described in division (C) 437
(1)(c) of this section, may be removed on proof that the 438
guardian of the estate is no longer a resident of this state. 439

(3) The court may appoint a resident or nonresident of 440
this state as a guardian of the person. 441

(D) Any fiduciary, whose residence qualifications are not 442

defined in this section, shall be a resident of this state, and 443
shall be removed on proof that the fiduciary is no longer a 444
resident of this state. 445

(E) Any fiduciary, in order to assist in the carrying out 446
of the fiduciary's fiduciary duties, may employ agents who are 447
not residents of the county or of this state. 448

(F) Every fiduciary shall sign and file with the court a 449
statement of permanent address and shall notify the court of any 450
change of address. A court may remove a fiduciary if the 451
fiduciary fails to comply with this division. 452

Sec. 2111.01. As used in Chapters 2101. to 2131. of the 453
Revised Code: 454

(A) "Guardian," other than a guardian under sections 455
5905.01 to 5905.19 of the Revised Code, means any person, 456
association, or corporation appointed by the probate court to 457
have the care and management of the person, the estate, or both 458
of an incompetent or minor. When applicable, "guardian" 459
includes, but is not limited to, a limited guardian, an interim 460
guardian, a standby guardian, and an emergency guardian 461
appointed pursuant to division (B) of section 2111.02 of the 462
Revised Code. "Guardian" also includes an agency under contract 463
with the department of developmental disabilities for the 464
provision of protective service under sections 5123.55 to 465
5123.59 of the Revised Code when appointed by the probate court 466
to have the care and management of the person of an incompetent. 467

(B) "Ward" means any ~~person incompetent or minor~~ for whom 468
a guardian is acting or for whom the probate court is acting 469
pursuant to section 2111.50 of the Revised Code. 470

(C) "Resident guardian" means a guardian appointed by a 471

probate court to have the care and management of property in 472
this state that belongs to a nonresident ward. 473

(D) "Incompetent" means either of the following: 474

(1) Any ~~person~~adult who is so mentally impaired, as a 475
result of a mental or physical illness or disability, as a 476
result of intellectual disability, or as a result of chronic 477
substance abuse, that the person is incapable of taking proper 478
care of the person's self or property or fails to provide for 479
the person's family or other persons for whom the person is 480
charged by law to provide; 481

(2) Any ~~person~~adult confined to a correctional 482
institution within this state. 483

(E) "Next of kin" means any person who would be entitled 484
to inherit from a ward under Chapter 2105. of the Revised Code 485
if the ward dies intestate. 486

(F) "Conservator" means a conservator appointed by the 487
probate court in an order of conservatorship issued pursuant to 488
section 2111.021 of the Revised Code. 489

(G) "Parent" means a natural parent or adoptive parent of 490
a minor child whose parental rights and responsibilities have 491
not been terminated by a ~~juvenile court or another court~~of 492
competent jurisdiction. 493

(H) "Financial harm" means impairment of an individual's 494
financial assets by ~~unlawfully~~ obtaining or exerting control 495
over the individual's real or personal property in any of the 496
following ways: 497

(1) Without the consent of the individual or the person 498
authorized to give consent on the individual's behalf; 499

(2) Beyond the scope of the express or implied consent of the individual or the person authorized to give consent on the individual's behalf;

(3) By deception;

(4) By threat;

(5) By intimidation;

(6) By fraud;

(7) By undue influence.

(I) "Limited guardian" means a guardian appointed with specific limited powers, including, but not limited to, overseeing the care and management of mental health, placement, visitation, or other specified limited powers, as outlined in the letters of guardianship.

(J) "Standby guardian" means a person nominated in a writing to be a guardian of the person, the estate, or both, of one or more of a nominator's minor children or incompetent adult children pursuant to section 2111.121 of the Revised Code.

(K) "Interim guardian" means a person appointed as guardian when an existing guardian is temporarily or permanently removed or resigns and if the welfare of the ward requires immediate action, for a maximum period of fifteen days that may be extended up to an additional thirty days for good cause shown and notice of hearing to the ward and interested parties.

(L) "Emergency guardian" means a person appointed as guardian when an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of a ward, for a maximum period of seventy-two hours that may be extended up to an additional

thirty days for good cause shown and notice of hearing to the 528
ward and interested parties. 529

Sec. 2111.011. (A) The clerk of the probate court shall 530
furnish a guardianship guide, prepared either by the attorney 531
general with the approval of the Ohio judicial conference or by 532
the Ohio judicial conference under division (B) of this section, 533
to a guardian of an incompetent at either of the following 534
times, whichever is applicable: 535

(1) Upon the appointment of the guardian under section 536
2111.02 of the Revised Code; 537

(2) If the guardian was appointed prior to the effective 538
date of this section, upon the first filing by the guardian with 539
the probate court of either of the following, as applicable, 540
after that effective date: 541

(a) A guardian's account, other than a final account, that 542
is required to be filed under section 2109.302 of the Revised 543
Code; 544

(b) A guardian's report that is required to be filed under 545
section 2111.49 of the Revised Code. 546

(B) (1) If the attorney general subsequently prepares any 547
updated version of the guardianship guide, the updated guide 548
shall include the rights of a ward as stated in any relevant 549
provision of the Revised Code that is then current. The clerk of 550
the probate court shall furnish the most recent version of the 551
guide to a guardian at either of the following times, whichever 552
is applicable: 553

(a) Upon the appointment of the guardian under section 554
2111.02 of the Revised Code after the most recent version of the 555
guide is prepared; 556

(b) If the guardian was appointed prior to the date of the most recent version of the guide, upon the first filing by the guardian with the probate court of either of the documents described in divisions (A) (2) (a) and (b) of this section, as applicable, after that date.

(2) In the alternative, the Ohio judicial conference may create, at their cost, an alternative guardianship guide for use in all probate courts. The alternative guardianship guide shall be distributed in accordance with all provisions contained in this ~~act~~section. The court shall furnish this alternative guardianship guide in accordance with the provisions of this section.

(C) The probate court shall establish a form for a guardian to sign acknowledging that the guardian received a guardianship guide pursuant to this section.

(D) Upon receiving a guardianship guide, the guardian shall sign the form specified in division (C) of this section. The signed form shall be kept permanently in the guardianship file of the probate court.

Sec. 2111.02. (A) If found necessary, a probate court on its own motion or on application by any interested party shall appoint, subject to divisions (C) and (D) of this section and to section 2109.21 and division (B) of section 2111.121 of the Revised Code, a guardian of the person, the estate, or both, of a minor or incompetent, provided the person for whom the guardian is to be appointed is a resident of the county or has a legal settlement in the county. If the person for whom the guardian is to be appointed is an adult, the person must be a qualified respondent as described in section 2112.21 of the Revised Code and have the opportunity to have the assistance of

counsel in the proceeding for the appointment of that guardian. 587
An interested party includes, but is not limited to, a person 588
nominated in a durable power of attorney under division (E) of 589
section ~~1337.24~~1337.12 of the Revised Code or in a writing as 590
described in division (A) of section 2111.121 of the Revised 591
Code. 592

Except when the guardian of an incompetent is an agency 593
under contract with the department of developmental disabilities 594
for the provision of protective services under sections 5123.55 595
to 5123.59 of the Revised Code, or another agency or corporation 596
appointed by the court, the guardian of an incompetent, by 597
virtue of the appointment as guardian, shall be the guardian of 598
the minor children of the guardian's ward upon the filing of a 599
separate application under a new case number, unless the court 600
appoints some other person as their guardian. 601

When the primary purpose of the appointment of a guardian 602
is, or was, the collection, disbursement, or administration of 603
moneys awarded by the veterans administration to the ward, or 604
assets derived from those moneys, no court costs shall be 605
charged in the proceeding for the appointment or in any 606
subsequent proceedings made in pursuance of the appointment, 607
unless the value of the estate, including the moneys then due 608
under the veterans administration award, exceeds one thousand 609
five hundred dollars. 610

(B) (1) If the probate court finds it to be in the best 611
interest of an incompetent or minor, it may appoint pursuant to 612
divisions (A) and (C) of this section, on its own motion or on 613
application by an interested party, a limited guardian with 614
specific limited powers. The sections of the Revised Code, 615
rules, and procedures governing guardianships apply to a limited 616

guardian, except that the order of appointment and letters of 617
authority of a limited guardian shall state the reasons for, and 618
specify the limited powers of, the guardian. The court may 619
appoint a limited guardian for a definite or indefinite period. 620
An incompetent or minor for whom a limited guardian has been 621
appointed retains all of the incompetent's or minor's rights in 622
all areas not affected by the court order appointing the limited 623
guardian. 624

(2) If a guardian appointed pursuant to division (A) of 625
this section is temporarily or permanently removed or resigns, 626
and if the welfare of the ward requires immediate action, at any 627
time after the removal or resignation, the probate court may 628
appoint, ex parte and with or without notice to the ward or 629
interested parties, an interim guardian for a maximum period of 630
fifteen days. If the court appoints the interim guardian ex 631
parte or without notice to the ward, the court, at its first 632
opportunity, shall enter upon its journal with specificity the 633
reason for acting ex parte or without notice, and, as soon as 634
possible, shall serve upon the ward a copy of the order 635
appointing the interim guardian. For good cause shown, after 636
notice to the ward and interested parties and after a hearing, 637
the court may extend an interim guardianship for a specified 638
period, but not to exceed an additional thirty days. 639

(3) If a minor or incompetent has not been placed under a 640
guardianship pursuant to division (A) of this section and if an 641
emergency exists and it is reasonably certain that immediate 642
action is required to prevent significant injury to the person 643
or estate of the minor or incompetent, at any time after it 644
receives notice of the emergency, the court, ex parte, may issue 645
any order that it considers necessary to prevent injury to the 646
person or estate of the minor or incompetent, or may appoint an 647

emergency guardian for a maximum period of seventy-two hours. A 648
written copy of any order issued by a court under this division 649
shall be served upon the incompetent or minor as soon as 650
possible after its issuance. Failure to serve that order after 651
its issuance or prior to the taking of any action under its 652
authority does not invalidate the order or the actions taken. 653
The powers of an emergency guardian shall be specified in the 654
letters of appointment, and shall be limited to those powers 655
that are necessary to prevent injury to the person or estate of 656
the minor or incompetent. If the court acts ex parte or without 657
notice to the minor or incompetent, the court, at its first 658
opportunity, shall enter upon its journal a record of the case 659
and, with specificity, the reason for acting ex parte or without 660
notice. For good cause shown, after notice to the minor or 661
incompetent and interested parties, and after a hearing, the 662
court may extend an emergency guardianship for a specified 663
period, but not to exceed an additional thirty days. 664

(C) Prior to the appointment of a guardian or limited 665
guardian under division (A) or (B) (1) of this section, the court 666
shall conduct a hearing on the matter of the appointment. The 667
hearing shall be conducted in accordance with all of the 668
following: 669

(1) The proposed guardian or limited guardian shall appear 670
at the hearing and, if appointed, shall swear under oath that 671
the proposed guardian or limited guardian has made and will 672
continue to make diligent efforts to file a true inventory in 673
accordance with section 2111.14 of the Revised Code and find and 674
report all assets belonging to the estate of the ward and that 675
the proposed guardian or limited guardian faithfully and 676
completely will fulfill the other duties of a guardian, 677
including the filing of timely and accurate reports and 678

accountings.	679
(2) If the hearing is conducted by a magistrate, the procedures set forth in Civil Rule 53 shall be followed.	680 681
(3) If the hearing concerns the appointment of a guardian or limited guardian for an alleged incompetent, the burden of proving incompetency shall be by clear and convincing evidence.	682 683 684
(4) Upon request of the applicant, the alleged incompetent for whom the appointment is sought or the alleged incompetent's counsel, or any interested party, a recording or record of the hearing shall be made.	685 686 687 688
(5) Evidence of a less restrictive alternative to guardianship may be introduced, and when introduced, shall be considered by the court.	689 690 691
(6) The court may deny a guardianship based upon a finding that a less restrictive alternative to guardianship exists.	692 693
(7) If the hearing concerns the appointment of a guardian or limited guardian for an alleged incompetent, the alleged incompetent has all of the following rights:	694 695 696
(a) The right to be represented by independent counsel of the alleged incompetent's choice;	697 698
(b) The right to have a friend or family member of the alleged incompetent's choice present;	699 700
(c) The right to have evidence of an independent expert evaluation introduced;	701 702
(d) If the alleged incompetent is indigent, upon the alleged incompetent's request:	703 704
(i) The right to have counsel and an independent expert	705

evaluator appointed at court expense; 706

(ii) If the guardianship, limited guardianship, or standby 707
guardianship decision is appealed, the right to have counsel 708
appointed and necessary transcripts for appeal prepared at court 709
expense. 710

(D) (1) If a person has been nominated to be a guardian of 711
the estate of a minor in or pursuant to a durable power of 712
attorney under section 1337.24 of the Revised Code or a writing 713
as described in division (A) of section 2111.121 of the Revised 714
Code, the person nominated has preference in appointment over a 715
person selected by the minor. A person who has been nominated to 716
be a guardian of the person of a minor in or pursuant to a 717
durable power of attorney or writing of that nature does not 718
have preference in appointment over a person selected by the 719
minor, but the probate court may appoint the person named in the 720
durable power of attorney or the writing, the person selected by 721
the minor, or another person as guardian of the person of the 722
minor. 723

(2) A person nominated as a guardian of an incompetent 724
adult child pursuant to a durable power of attorney under 725
division (E) of section ~~1337.24~~ 1337.12 of the Revised Code or 726
pursuant to section 2111.121 of the Revised Code shall have 727
preference in appointment over a person applying to be guardian 728
if the person nominated is competent, suitable, and willing to 729
accept the appointment, and if the incompetent adult child does 730
not have a spouse or an adult child and has not designated a 731
guardian prior to the court finding the adult child incompetent. 732

Sec. 2111.021. A competent adult ~~who is physically infirm~~ 733
may petition the probate court of the county in which the 734
petitioner resides, to place, for a definite or indefinite 735

period of time, the petitioner's person, any or all of the 736
petitioner's real or personal property, or both under a 737
conservatorship with the court. A petitioner either may grant 738
specific powers to the conservator or court or may limit any 739
powers granted by law to the conservator or court, except that 740
the petitioner may not limit the powers granted to the court by 741
this section and may not limit the requirement for bond as 742
determined by the court. The petition shall state whether the 743
person of the competent adult will be placed under the 744
conservatorship, shall state with particularity all real and 745
personal property that will be placed under the conservatorship, 746
shall state the powers granted and any limitation upon the 747
powers of the conservator or court, and shall state the name of 748
a proposed suitable conservator. 749

After a hearing, if the court finds that the petition was 750
voluntarily filed and that the proposed conservator is suitable, 751
the court shall issue an order of conservatorship. Upon issuance 752
of the order, all sections of the Revised Code governing a 753
guardianship of the person, the estate, or both, whichever is 754
involved, except those sections the application of which 755
specifically is limited by the petitioner, and all rules and 756
procedures governing a guardianship of the person, the estate, 757
or both, shall apply to the conservatorship, including, but not 758
limited to, applicable bond and accounting requirements. 759

A conservatorship shall terminate upon a judicial 760
determination of incompetency, the death of the petitioner, the 761
order of the probate court, or the execution of a written 762
termination notice by the petitioner. A termination notice shall 763
take effect upon execution by the petitioner, and shall be filed 764
with the court and served upon the conservator. A termination 765
notice executed by a petitioner relative to a conservatorship of 766

the estate and the termination of a conservatorship of the 767
estate based upon a termination notice are void unless the 768
termination notice is filed with the court within fourteen days 769
after its execution. Modification of the powers of a conservator 770
or the court may be made by the petitioner upon motion to the 771
court at any time during the conservatorship. Neither the 772
establishment of a conservatorship nor the filing of a petition 773
for conservatorship with the probate court shall be considered 774
as evidence of mental impairment under section 2111.01 of the 775
Revised Code. 776

Upon motion to the probate court and a showing of good 777
cause, the court may make confidential, or remove from 778
confidential status, any file, record, petition, motion, 779
account, or paper, except for an index, docket, or journal, that 780
pertains to a conservatorship and that is in the possession of 781
the court. 782

Sec. 2111.022. (A) A probate court, on its own motion or 783
on application of an interested party, may issue an emergency ex 784
parte order freezing the financial assets of an individual whom 785
the court or applicant has reason to believe is missing or has 786
gone or been taken ~~to another state~~ away if it is reasonably 787
certain that immediate action is required to prevent significant 788
financial harm to the individual. The order may freeze the 789
individual's assets for a period not exceeding seventy-two 790
hours. If the individual is located, a written copy of the order 791
shall be served upon the individual as soon as possible after 792
its issuance. The court, at its first opportunity, shall enter 793
upon its journal a record of the case and, with specificity, the 794
reason for the action. For good cause shown, after notice to the 795
individual and after a hearing, the court may extend the 796
emergency order for a specified period of not more than thirty 797

additional days. 798

(B) The powers of the probate court under this section are 799
in addition to and not in derogation of any powers the court has 800
under division (B) (3) of section 2111.02 of the Revised Code. 801

Sec. 2111.03. A person applying for appointment as a 802
guardian, including, but not limited to, as a limited guardian, 803
pursuant to section 2111.02 of the Revised Code, shall file with 804
the probate court an application that contains a statement of 805
the whole estate of the ward, its probable value, and the 806
probable annual rents of the ward's real property, and that also 807
contains the following: 808

(A) A statement whether the applicant ever has been 809
charged with or convicted of any crime involving theft, physical 810
violence, or sexual, alcohol, or substance abuse, and, if the 811
applicant has been so charged or convicted, the date and place 812
of each charge and each conviction; 813

(B) A statement whether a limited guardianship is sought 814
and, if sought, a specification of the limited powers that are 815
requested and a statement whether the limited guardianship is to 816
be for a definite or indefinite period; 817

(C) In the case of an application for the appointment of a 818
guardian of a minor, all of the following: 819

(1) Name, age, and residence of the minor; 820

(2) Name and residence of each parent of the minor; 821

(3) Name, degree of kinship, age, and address of next of 822
kin of the minor, if no parent is living or if a parent of the 823
minor is absent, under disability, or for other reason cannot be 824
notified; 825

~~(4) Name and residence address of the person having~~ 826
~~custody of the minor~~The affidavit as set forth in section 827
3127.23 of the Revised Code; 828

(5) The name and contact information of any person 829
nominated in a writing pursuant to section 2111.121 of the 830
Revised Code. 831

(D) In the case of an application for the appointment of a 832
guardian of an alleged incompetent, all of the following: 833

(1) Name, age, and residence of the person for whom such 834
appointment is sought; 835

(2) Facts upon which the application is based; 836

(3) Name, degree of kinship, age, and address of the next 837
of kin of the alleged incompetent; 838

(4) The proposed ward's military service, if applicable; 839

(5) The name and contact information of any person 840
nominated pursuant to division (E) of section 1337.12 of the 841
Revised Code or nominated in a writing pursuant to section 842
2111.121 of the Revised Code; 843

(6) A statement of expert evaluation under Rule 66 of the 844
Rules of Superintendence for the Courts of Ohio, by a licensed 845
physician, or other qualified person as determined by the court, 846
who has evaluated or examined the proposed ward within three 847
months prior to the date of the statement of expert evaluation 848
regarding the need for establishing the guardianship. 849

The court, on its own motion, shall proceed as provided in 850
this chapter, upon suggestion by the bureau of workers' 851
compensation that any person who has made application for or 852
been awarded compensation or death benefits as an employee or 853

the dependent of a killed employee is a minor or incompetent. In 854
that case, no application need be filed and the bureau shall 855
furnish the court with the name and residence of such person and 856
the name, degree of kinship, age, and address of the father, 857
mother, or next of kin of such person insofar as known by the 858
bureau. 859

Sec. 2111.031. In connection with an application for the 860
appointment of a guardian for an alleged incompetent, the court 861
may appoint physicians, and other qualified persons as 862
determined by the court, to examine, investigate, or represent 863
the alleged incompetent, to assist the court in deciding whether 864
a guardianship is necessary. Upon application to the court and 865
for good cause shown, the court may order appropriate law 866
enforcement personnel to transport the proposed ward for 867
evaluation. If the person is determined to be an incompetent and 868
a guardian is appointed for the person, the costs, fees, or 869
expenses incurred to so assist the court shall be charged either 870
against the estate of the person or against the applicant, 871
unless the court determines, for good cause shown, that the 872
costs, fees, or expenses are to be recovered from the county, in 873
which case they shall be charged against the county. If the 874
person is not determined to be an incompetent or a guardian is 875
not appointed for the person, the costs, fees, or expenses 876
incurred to so assist the court shall be charged against the 877
applicant, unless the court determines, for good cause shown, 878
that the costs, fees, or expenses are to be recovered from the 879
county, in which case they shall be charged against the county. 880

A court may require the applicant to make an advance 881
deposit of an amount that the court determines is necessary to 882
defray the anticipated costs of examinations of an alleged 883
incompetent and to cover fees or expenses to be incurred to 884

assist it in deciding whether a guardianship is necessary. 885

This section does not affect or apply to the duties of a 886
probate court investigator under sections 2111.04 and 2111.041 887
of the Revised Code. 888

Sec. 2111.04. (A) Except for an interim or emergency 889
guardian appointed under division (B) (2) or (3) of section 890
2111.02 of the Revised Code, or a successor guardian, no 891
guardian of the person, the estate, or both shall be appointed 892
until at least seven days after the probate court has caused 893
written notice, setting forth the time and place of the hearing, 894
to be served as follows: 895

(1) In the appointment of the guardian of a minor, notice 896
shall be served as follows: 897

(a) Upon the minor, if over the age of ~~fourteen~~twelve, by 898
personal service; 899

(b) Upon each parent of the minor whose name and address 900
is known or with reasonable diligence can be ascertained, 901
provided the parent is free from disability other than minority; 902

(c) Upon the next of kin of the minor who are known to 903
reside in this state, if there is no living parent, the name and 904
address of the parent cannot be ascertained, or the parent is 905
under disability other than minority; 906

(d) Upon the person having the custody of the minor. 907

(2) In the appointment of the guardian of an incompetent, 908
notice shall be served as follows: 909

(a) (i) Upon the person for whom appointment is sought by 910
personal service, by a probate court investigator, or in the 911
manner provided in division (A) (2) (a) (ii) of this section. The 912

notice shall be in boldface type and shall inform the alleged 913
incompetent, in boldface type, of the alleged incompetent's 914
rights to be present at the hearing, to contest any application 915
for the appointment of a guardian for the alleged incompetent's 916
person, estate, or both, and to be represented by an attorney 917
and of all of the rights set forth in division (C) (7) of section 918
2111.02 of the Revised Code. 919

(ii) If the person for whom appointment is sought is a 920
resident of, or has a legal settlement in, the county in which 921
the court has jurisdiction, but is absent from that county, the 922
probate court may designate, by order, a temporary probate court 923
investigator, in lieu of a regular probate court investigator 924
appointed or designated under section 2101.11 of the Revised 925
Code, to make the personal service of the notice described in 926
division (A) (2) (a) (i) of this section upon the person for whom 927
appointment is sought. 928

(b) Upon the next of kin of the person for whom 929
appointment is sought who are known to reside in this state. 930

(B) After service of notice in accordance with division 931
(A) of this section and for good cause shown, the court may 932
appoint a guardian prior to the time limitation specified in 933
that division. 934

~~(C) Notice may not be waived by the person for whom the~~ 935
~~appointment is sought~~For good cause shown, the requirement of 936
notice under division (A) of this section may be waived, except 937
for the notice to the proposed ward. 938

(D) From the service of notice until the hearing, no sale, 939
gift, conveyance, or encumbrance of the property of an alleged 940
incompetent shall be valid as to persons having notice of the 941

proceeding. 942

Sec. 2111.041. (A) At the time of the service of notice 943
upon an alleged incompetent, as required by division (A) (2) (a) 944
of section 2111.04 of the Revised Code, the court shall require 945
a ~~regular~~ probate court investigator appointed or designated 946
under section 2101.11 of the Revised Code or appoint a temporary 947
probate court investigator to investigate the circumstances of 948
the alleged incompetent, and, to the maximum extent feasible, to 949
communicate to the alleged incompetent in a language or method 950
of communication that the alleged incompetent can understand, 951
the alleged incompetent's rights as specified in that division, 952
and subsequently to file with the court a report that contains 953
all of the following: 954

(1) A statement indicating that the notice was served and 955
describing the extent to which the alleged incompetent's rights 956
to be present at the hearing, to contest any application for the 957
appointment of a guardian for the alleged incompetent's person, 958
estate, or both, and to be represented by an attorney were 959
communicated to the alleged incompetent in a language or method 960
of communication understandable to the alleged incompetent; 961

(2) A brief description, as observed by the investigator, 962
of the physical and mental condition of the alleged incompetent; 963

(3) A recommendation regarding the necessity for a 964
guardianship or a less restrictive alternative; 965

(4) A recommendation regarding the necessity of appointing 966
pursuant to section 2111.031 of the Revised Code, an attorney to 967
represent the alleged incompetent. 968

(B) The report that is required by division (A) of this 969
section shall be made a part of the record in the case and shall 970

be considered by the court prior to establishing any 971
guardianship for the alleged incompetent. 972

Sec. 2111.05. (A) When the whole estate of a ward does not 973
exceed twenty-five thousand dollars in value, the guardian may 974
apply to the probate court for an order to terminate the 975
guardianship of the estate. Upon proof that it would be for the 976
best interest of the ward to terminate the guardianship, the 977
court may order the guardianship terminated, ~~and direct the~~ 978
~~guardian, if.~~ 979

(1) If the ward is a minor, the court may direct the 980
guardian to deposit the assets of the guardianship in a 981
depository authorized to receive fiduciary funds, payable to the 982
~~ward when the ward attains~~ minor upon attaining the age of 983
~~majority, or the court may authorize the delivery of the assets~~ 984
~~to the natural guardian of the minor, to the person by whom the~~ 985
~~minor is maintained, to the executive director of children~~ 986
~~services in the county, or to the minor's own self. A receipt~~ 987
verifying the deposit of assets shall be submitted to the court. 988
Release of any funds held in a depository for the benefit of the 989
minor shall be by court order, including the release of funds to 990
the minor upon attaining the age of majority. In the alternative 991
and for good cause shown, the court may direct the guardian to 992
deliver the assets to a suitable person. The person receiving 993
the assets shall hold and dispose of them in the manner the 994
court directs. 995

(2) If the ward is an incompetent, and the court orders 996
the guardianship terminated, the court may authorize the deposit 997
of the assets of the guardianship in a depository authorized to 998
receive fiduciary funds in the name of a suitable person to be 999
designated by the court, ~~or if.~~ A receipt verifying the deposit 1000

of assets shall be submitted to the court. Release of any funds 1001
held in a depository for the benefit of the incompetent shall be 1002
by court order. If the assets do not consist of money, the court 1003
may authorize delivery to a suitable person to be designated by 1004
the court. The person receiving the assets shall hold and 1005
dispose of them in the manner the court directs. 1006

(B) If the court refuses to grant the application to 1007
terminate the guardianship, or if no such application is 1008
presented to the court, the guardian only shall be required to 1009
render account upon the termination of the guardianship, upon 1010
order of the probate court made ~~upon~~on its own motion, or upon 1011
the order of the court made on the motion of a person interested 1012
in the wards or their property, for good cause shown, and set 1013
forth upon the journal of the court. 1014

(C) If the estate of a minor is twenty-five thousand 1015
dollars or less ~~and the ward is a minor~~, the court, without the 1016
appointment of a guardian by the court, or if a guardian is 1017
appointed by the court, without the giving of bond, may 1018
authorize the deposit in a depository authorized to receive 1019
fiduciary funds, payable to the guardian when appointed, or to 1020
the ~~ward when the ward attains minor upon attaining the age of~~ 1021
~~majority, or the court may authorize delivery to the natural-~~ 1022
~~guardian of the minor, to the person by whom the minor is~~ 1023
~~maintained, to the executive director who is responsible for the~~ 1024
~~administration of children services in the county, or to the~~ 1025
~~minor's own self.~~ A receipt verifying the deposit of assets 1026
shall be submitted to the court. Release of any funds held in a 1027
depository for the benefit of the minor shall be by court order, 1028
including the release of the funds to the minor upon attaining 1029
the age of majority. In the alternative and for good cause 1030
shown, the court may authorize delivery of the assets to a 1031

suitable person. The person receiving the assets shall hold and 1032
dispose of them in the manner the court directs. 1033

(D) If the whole estate of a person ~~over~~eighteen years of 1034
age ~~or older~~, who has been adjudged incompetent, does not exceed 1035
twenty-five thousand dollars in value, the court, without the 1036
appointment of a guardian by the court or if a guardian is 1037
appointed by the court, without the giving of bond, may 1038
authorize the deposit of the estate assets in a depository 1039
authorized to receive fiduciary funds in the name of a suitable 1040
person to be designated by the court, ~~or if.~~ A receipt verifying 1041
the deposit of assets shall be submitted to the court. Release 1042
of any funds held in a depository for the benefit of the 1043
incompetent shall be by court order. If the assets do not 1044
consist of money, the court may authorize delivery to a suitable 1045
person to be designated by the court. The person receiving the 1046
assets shall hold and dispose of them in the manner the court 1047
directs. 1048

Sec. 2111.06. (A) If the powers of the person appointed as 1049
guardian of a minor or incompetent are not limited by the order 1050
of appointment, the person shall be guardian both of the person 1051
and estate of the ward. In every instance, the court shall 1052
appoint the same person as guardian of the person and estate of 1053
the ward, unless in the opinion of the court the interests of 1054
the ward will be promoted by the appointment of different 1055
persons as guardians of the person and of the estate. 1056

(B) A guardian of the person of an incompetent shall 1057
oversee the physical placement, maintenance, and care of the 1058
ward. 1059

(C) A guardian of the person of a minor shall be appointed 1060
as to a minor having no ~~father or mother~~living parent, whose 1061

parents are unsuitable persons to have the custody of the minor 1062
~~and to provide for the education of the minor as required by~~ 1063
~~section 3321.01 of the Revised Code, or whose interests, in the~~ 1064
opinion of the court, will be promoted by the appointment of a 1065
guardian. ~~A guardian of the person shall have the custody and~~ 1066
~~provide for the maintenance of the ward, and if the ward is a~~ 1067
~~minor, the guardian shall also provide for the education of the~~ 1068
~~ward as required by section 3321.01 of the Revised Code.~~ 1069

(D) (1) A guardian of the person of a minor shall have the 1070
legal custody of the minor. 1071

(2) As used in division (D) (1) of this section, "legal 1072
custody" means a legal status that vests in the custodian the 1073
right to have physical care and control of the minor, and to 1074
determine where and with whom the minor shall live, and the 1075
right and duty to protect, train, and discipline the minor and 1076
to provide the minor with food, shelter, education, and medical 1077
care, all subject to any residual parental rights, privileges, 1078
and responsibilities. 1079

(E) Before exercising its jurisdiction to appoint a 1080
guardian of a minor, the court shall comply with the 1081
jurisdictional standards of sections 3127.01 to 3127.53 of the 1082
Revised Code. 1083

Sec. 2111.08. ~~The wife and husband are the joint natural~~ 1084
~~guardians of their minor children and are equally charged with~~ 1085
~~their care, nurture, welfare, and education and the care and~~ 1086
~~management of their estates. The wife and husband have equal~~ 1087
~~powers, rights, and duties and neither parent has any right~~ 1088
~~paramount to the right of the other concerning the parental~~ 1089
~~rights and responsibilities for the care of the minor or the~~ 1090
~~right to be the residential parent and legal custodian of the~~ 1091

~~minor, the control of the services or the earnings of such- 1092
minor, or any other matter affecting the minor; provided that if- 1093
either parent, to the exclusion of the other, is maintaining and- 1094
supporting the child, that parent shall have the paramount right- 1095
to control the services and earnings of the child. Neither- 1096
parent shall forcibly take a child from the guardianship of the- 1097
parent who is the residential parent and legal custodian of the- 1098
child. 1099~~

~~If the wife and husband live apart, the court may award- 1100
the guardianship of a minor to either parent, and the state in- 1101
which the parent who is the residential parent and legal- 1102
custodian or who otherwise has the lawful custody of the minor- 1103
resides has jurisdiction to determine questions concerning the- 1104
minor's guardianship. Married parents are the joint natural 1105
guardians of their minor children. 1106~~

Sec. 2111.091. ~~No attorney who represents any other person- 1107
and who is appointed as a guardian under this chapter or under 1108
any other provision of the Revised Code shall do either of the 1109
following: 1110~~

(A) Act as a person with co-responsibility for any 1111
guardianship asset for which the guardian is responsible; 1112

(B) Be a cosignatory on any financial account related to 1113
the guardianship, including any checking account, savings 1114
account, or other banking or trust account. 1115

Sec. 2111.12. (A) A minor over the age of ~~fourteen~~ twelve 1116
years may select a guardian who shall be appointed if a suitable 1117
person. If a minor over the age of ~~fourteen~~ twelve years fails 1118
to select a suitable person, an appointment may be made without 1119
reference to the minor's wishes. The minor shall not select one 1120

person to be the guardian of the minor's estate only and another 1121
to be the guardian of the person only, unless the court that 1122
appoints the guardian is of the opinion that the interests of 1123
that minor will be promoted by that selection. 1124

(B) A surviving parent by a will in writing may ~~appoint~~ 1125
nominate a guardian for any of the surviving parent's children, 1126
whether born at the time of making the will or afterward, to 1127
continue during the minority of the child or for a less time. 1128

When the ~~father or mother parent~~ of a minor ~~names~~ 1129
nominates a person as guardian of the estate of that minor in a 1130
will, the person ~~named~~ nominated shall have preference in 1131
appointment over the person selected by the minor. A person 1132
~~named~~ nominated in that will as guardian of the person of that 1133
minor shall have no preference in appointment over the person 1134
selected by the minor, but in that event the probate court may 1135
appoint the person named in the will, the person selected by the 1136
minor, or some other person. 1137

~~Whenever a testamentary guardian is appointed, the~~ 1138
~~testamentary guardian's duties, powers, and liabilities in all~~ 1139
~~other respects shall be governed by the law regulating guardians~~ 1140
~~not appointed by will.~~ 1141

(C) A parent pursuant to a durable power of attorney under 1142
section 1337.24 of the Revised Code or a writing as described in 1143
division (A) of section 2111.121 of the Revised Code may 1144
nominate a person to be a guardian for one or more of the 1145
parent's minor children, whether born at the time of the making 1146
of the nomination or afterward. 1147

Sec. 2111.13. (A) When a guardian is appointed to have the 1148
custody and maintenance of a ward, and to have charge of the 1149

education of the ward if the ward is a minor, the guardian's 1150
duties are as follows: 1151

(1) To protect and control the person of the ward; 1152

(2) To provide suitable maintenance for the ward when 1153
necessary, which shall be paid out of the estate of such ward 1154
upon the order of the guardian of the person; 1155

(3) To provide ~~such the~~ maintenance and education for such 1156
ward ~~as that~~ the amount of the ward's estate justifies when the 1157
ward is a minor and has no ~~father or mother~~parent, or has a 1158
~~father or mother~~parent who fails to maintain or educate the 1159
ward, which shall be paid out of such ward's estate upon the 1160
order of the guardian of the person; 1161

(4) To obey all the orders and judgments of the probate 1162
court touching the guardianship; 1163

(5) To identify both family and nonfamily members with 1164
whom the ward desires to communicate, and to facilitate the 1165
contact that the guardian believes is in the best interest of 1166
the ward. Any dispute regarding visitation of the ward shall be 1167
reviewed as provided in Rule 66 of the Rules of Superintendence 1168
for the Courts of Ohio. 1169

(B) Except as provided in section 2111.131 of the Revised 1170
Code, no part of the ward's estate shall be used for the 1171
support, maintenance, or education of such ward unless ordered 1172
and approved by the court. 1173

(C) A guardian of the person may authorize or approve the 1174
provision to the ward of medical, health, or other professional 1175
care, counsel, treatment, or services unless the ward or an 1176
interested party files objections with the probate court, or the 1177
court, by rule or order, provides otherwise. 1178

(D) Unless a person with the right of disposition for a 1179
ward under section 2108.70 or 2108.81 of the Revised Code has 1180
made a decision regarding whether or not consent to an autopsy 1181
or post-mortem examination on the body of the deceased ward 1182
under section 2108.50 of the Revised Code shall be given, a 1183
guardian of the person of a ward who has died may consent to the 1184
autopsy or post-mortem examination. 1185

(E) If a deceased ward did not have a guardian of the 1186
estate, the estate is not required to be administered by a 1187
probate court, and a person with the right of disposition for a 1188
ward, as described in section 2108.70 or 2108.81 of the Revised 1189
Code, has not made a decision regarding the disposition of the 1190
ward's body or remains, the guardian of the person of the ward 1191
may authorize the burial or cremation of the ward. 1192

(F) A guardian who gives consent or authorization as 1193
described in divisions (D) and (E) of this section shall notify 1194
the probate court as soon as possible after giving the consent 1195
or authorization. 1196

Sec. 2111.131. (A) The probate court may enter an order 1197
that authorizes a person under a duty to pay or deliver money or 1198
personal property to a minor who does not have a guardian of the 1199
person and estate or a guardian of the estate, to perform that 1200
duty in ~~amounts~~an amount not exceeding ~~five~~twenty-five 1201
thousand dollars~~annually~~, by paying or delivering the money or 1202
property to any of the following: 1203

(1) The guardian of the person only of the minor; 1204

(2) The minor's natural guardians, if any, as determined 1205
pursuant to section 2111.08 of the Revised Code; 1206

(3) The minor; 1207

(4) Any person who has the care and custody of the minor 1208
and with whom the minor resides, other than a guardian of the 1209
person only or a natural guardian; 1210

(5) A financial institution incident to a deposit in a 1211
federally insured savings account in the sole name of the 1212
minor. A receipt verifying the deposit shall be submitted to 1213
the court. Release of any funds held in a depository for the 1214
benefit of the minor shall be upon court order, including the 1215
release of funds to the minor upon attaining the age of 1216
majority. 1217

(6) A custodian designated by the court in its order, for 1218
the minor under sections 5814.01 to 5814.10 of the Revised Code; 1219

(7) A trust for the benefit of the minor pursuant to 1220
section 2111.182 of the Revised Code. 1221

(B) An order entered pursuant to division (A) of this 1222
section authorizes the person or entity specified in it, to 1223
receive the money or personal property on behalf of the minor 1224
from the person under the duty to pay or deliver it, in ~~amounts~~ 1225
an amount not exceeding ~~five~~ twenty-five thousand dollars 1226
annually. Money or personal property so received by guardians of 1227
the person only, natural guardians, and custodians as described 1228
in division (A) (4) of this section may be used by them only for 1229
the support, maintenance, or education of the minor involved. 1230
The order of the court is prima-facie evidence that a guardian 1231
of the person only, a natural guardian, or a custodian as 1232
described in division (A) (4) of this section has the authority 1233
to use the money or personal property received. 1234

(C) A person who pays or delivers moneys or personal 1235
property in accordance with a court order entered pursuant to 1236

division (A) of this section is not responsible for the proper 1237
application of the moneys or property by the recipient. 1238

Sec. 2111.18. If personal injury, damage to tangible or 1239
intangible property, or damage or loss on account of personal 1240
injury or damage to tangible or intangible property is caused to 1241
a ward by wrongful act, neglect, or default that would entitle 1242
the ward to maintain an action and recover damages for the 1243
injury, damage, or loss, and when any ward is entitled to 1244
maintain an action for damages or any other relief based on any 1245
claim or is subject to any claim to recover damages or any other 1246
relief based on any claim, the guardian of the estate of the 1247
ward may adjust and settle the claim with the advice, approval, 1248
and consent of the probate court. 1249

If it is proposed that a claim be settled for the net 1250
amount of twenty-five thousand dollars or less after payment of 1251
fees and expenses as allowed by the court, the court, upon 1252
application by a guardian of the person of the ward, or any 1253
suitable person whom the court may authorize to receive and 1254
receipt for the settlement, may authorize the settlement without 1255
the appointment of a guardian of the estate of the ward and 1256
authorize the delivery of the moneys as provided in section 1257
2111.05 of the Revised Code. The court may authorize the person 1258
receiving the moneys to execute a complete release on account of 1259
the receipt. The payment shall be a complete and final discharge 1260
of that claim. In the settlement, if the ward is a minor, the 1261
parent or parents of the minor may waive all claim for damages 1262
on account of loss of service of the minor, and that claim may 1263
be included in the settlement. 1264

Sec. 2111.181. If personal injury, damage to tangible or 1265
intangible property, or damage or loss on account of personal 1266

injury or damage to tangible or intangible property is caused to 1267
a minor who claims to be emancipated, by wrongful act, neglect, 1268
or default that would entitle the minor to maintain an action 1269
and recover damages for the injury, damage, or loss, and if any 1270
minor who claims to be emancipated is entitled to maintain an 1271
action for damages or any other relief based on any claim, or is 1272
subject to any claim to recover damages or any other relief 1273
based on any claim, the minor who claims to be emancipated may 1274
file an application in the probate court in the county where the 1275
minor then resides, praying for a finding by the court that the 1276
minor is in fact emancipated for the sole purpose of settlement 1277
of the claim, and authorizing, approving, and consenting to the 1278
settlement of the claim by the minor without the appointment of 1279
a guardian. 1280

Upon a hearing on the application, after five days' 1281
written notice of the time and place of the hearing has been 1282
given to each of the living parents of the minor, whose name and 1283
address is known, provided the parent is free from disability 1284
other than minority, or, if there is no living parent, after 1285
that notice to the next of kin of the minor known to reside in 1286
the county, the court may find the minor to be emancipated, may 1287
authorize, approve, and consent to the settlement of the claim 1288
by the minor without the appointment of a guardian, may 1289
authorize the minor to receive and receipt for the settlement, 1290
and, upon the minor executing and delivering a full and complete 1291
release for the injuries, damages, losses, or claims, may 1292
authorize the delivery and payment of the moneys to the minor, 1293
to a trustee or guardian of the estate of the minor appointed by 1294
the court for the benefit of the minor, or to a depository 1295
authorized to receive fiduciary funds to hold the moneys payable 1296
to the ~~ward~~ minor when the ~~ward~~ minor attains the age of 1297

majority, or for the benefit of the minor, as the court may 1298
direct. 1299

Upon the finding of the probate court that the minor was, 1300
at the time of the injury, damage, loss, or claim, an 1301
emancipated minor, and provided the notice required by this 1302
section has been given to each living parent, whose name and 1303
address is known, then the release executed by the emancipated 1304
minor shall be a full and complete discharge and release of any 1305
claim that either or both of the parents might have by reason of 1306
the personal injury, damage to tangible or intangible property, 1307
damage or loss on account of personal injury, or damage to 1308
tangible or intangible property, or any other claim of the 1309
minor. 1310

Sec. 2111.19. A guardian, whether appointed by a court in 1311
this state or elsewhere, may complete the contracts of the ward 1312
for the purchase or sale of real property ~~or~~. An appointed 1313
successor guardian may complete any authorized contract relating 1314
to real property entered into by a guardian who has died or been 1315
removed. The appointed successor guardian shall proceed in the 1316
manner provided by sections 2113.48 to 2113.50 of the Revised 1317
Code. 1318

Sec. 2111.20. The guardian of the person and estate, or of 1319
the estate only, may sell all or any part of the personal 1320
property of the ward if the sale is for the best interest of the 1321
ward, with prior court approval. 1322

Sec. 2111.23. Whenever a ward, for whom a guardian of the 1323
estate or of the person and estate has been appointed, is 1324
interested in any suit or proceeding in the probate court, such 1325
guardian shall in all such suits or proceedings act as guardian 1326
ad litem for such ward, except as to suits or proceedings in 1327

which the guardian has an adverse interest. In a suit or 1328
proceeding in which the guardian has an adverse interest, the 1329
court shall appoint a guardian ad litem to represent that ward. 1330

Whenever a minor or other person under legal disability, 1331
for whom no guardian of the estate or of the person and estate 1332
has been appointed, is interested in any suit or proceeding in 1333
such court, the court may appoint a guardian or a guardian ad 1334
litem. ~~In a suit or proceeding in which the guardian has an~~ 1335
~~adverse interest, the court shall appoint a guardian ad litem to~~ 1336
represent such minor or other person under legal disability. 1337

Sec. 2111.26. A guardian may lease ~~the possession and use~~ 1338
~~of to others~~ the real property of the ~~guardian's~~ ward or any 1339
part of it for a term of years, renewable or otherwise, by 1340
perpetual lease, with or without the privilege of purchase, or 1341
may lease upon the terms and for the time that the probate court 1342
approves any lands belonging to the ward containing coal, 1343
gypsum, petroleum oil, natural gas, gravel, stone, or any other 1344
mineral substance for the purpose of drilling, mining, or 1345
excavating for and removing any of those substances, or the 1346
guardian may modify or change in any respect any lease 1347
previously made. 1348

The lease, or modification or change in a lease previously 1349
made, may be made when the guardian of the person and estate or 1350
of the estate only applies to the court by which the guardian 1351
was appointed and the court finds that the lease or modification 1352
or change is necessary for the support of the ward or of the 1353
ward's family, for the payment of the just debts of the ward, 1354
for the ward's education, if a minor, to secure the improvement 1355
of the real property of the ward and increase the rent, to pay 1356
any liens or claims against the real property, if the court 1357

finds that the real property is suffering unavoidable waste, or 1358
that in any other respect it will be for the best interests of 1359
the ward or those persons for whom the ward is required by law 1360
to provide. 1361

Sec. 2111.33. (A) ~~A~~Upon motion, a guardian may use the 1362
moneys and personal property of the guardian's ward to improve 1363
the ward's real property. The guardian shall file in the probate 1364
court in which the guardian was appointed a ~~petition~~motion 1365
containing the following: 1366

(1) A description of the premises to be improved; 1367

(2) ~~The~~If applicable, the amount of rent the premises 1368
yield at the time the ~~petition~~motion is filed; 1369

(3) In what manner the improvement is proposed to be made; 1370

(4) The proposed expenditures for the improvement; 1371

(5) The rent the premises will probably yield when so 1372
improved, if any; 1373

(6) A statement of the value of the ward's personal 1374
property; 1375

(7) Other facts that are pertinent to the question whether 1376
the improvement should be made; 1377

~~(8) A prayer that the guardian be authorized to use so 1378
much of the ward's money and personal property that is necessary 1379
to make the improvement; 1380~~

~~(9) The character of the disability of the ward, and if it 1381
is incompetency, whether the disability is curable or not, 1382
temporary, or confirmed, and its duration; 1383~~

~~(10) The names, ages, and residence of the family of the 1384~~

~~ward, including the spouse and those known to be residents of~~ 1385
~~the county who have the next estate of inheritance from the~~ 1386
~~ward. All of those persons, as well as the ward, shall be made~~ 1387
~~defendants and notified of the pendency and prayer of the~~ 1388
~~petition in the manner that the court directs.~~ 1389

~~(B) If the property is so situated that, to the best~~ 1390
~~interests of the ward's estate, it can be advantageously~~ 1391
~~improved in connection with the improvement of property adjacent~~ 1392
~~to it, the petition shall show this and have a prayer to so~~ 1393
~~improve the property.~~The court may appoint a guardian ad litem to 1394
report to the court the guardian ad litem's opinion whether the 1395
improvement proposed will be necessary, reasonable, and 1396
beneficial to the estate of the ward. 1397

Sec. 2111.37. ~~If a nonresident minor, or incompetent, or~~ 1398
~~person confined in a state, charitable, or correctional~~ 1399
~~institution has real property or rights, credits, moneys, or~~ 1400
other personal property in this state, the probate court of the 1401
county in which the property or a part of it is situated may 1402
appoint a resident guardian of the ward to manage, collect, 1403
lease, and take care of the ward's property. The appointment may 1404
be made whether or not a ward has a guardian, trustee, or other 1405
conservator in the state of the ward's residence, and, if the 1406
ward has a guardian, trustee, or other conservator in the state 1407
of the ward's residence, the control and authority of the 1408
resident guardian appointed in this state shall be superior as 1409
to all property of the ward in this state. 1410

The first appointment of a resident guardian of a 1411
nonresident ward shall extend to all the property and effects of 1412
the ward in this state and exclude the jurisdiction of the 1413
probate court of any other county. 1414

Sec. 2111.38. The resident guardian of a nonresident ward 1415
shall give bond and be bound and controlled by all the statutes 1416
of this state as though the resident guardian were a guardian of 1417
a ward resident in this state, and shall have all of the 1418
authority of a guardian of a resident ward including the 1419
authority to lease or sell real property belonging to the ward. 1420

Unless removed by the probate court, a resident guardian 1421
of a nonresident minor shall hold that appointment until the 1422
minor dies or arrives at the age of majority, whether or not the 1423
minor ~~is~~ was over fourteen years of age at the time of 1424
appointment prior to the effective date of this section or 1425
whether or not the minor is over twelve years of age at the time 1426
of appointment on or after the effective date of this section. A 1427
resident guardian of any other nonresident ward shall hold that 1428
appointment until the death of the ward or until the court is 1429
satisfied that the necessity for the guardianship no longer 1430
exists. 1431

All moneys due to the nonresident ward while the resident 1432
guardianship continues shall be paid over to the ward's foreign 1433
guardian ~~so far as necessary or proper for the ward's support~~ 1434
~~and maintenance~~ if it is in the ward's best interest. If the ward 1435
dies, the moneys shall be paid to the ward's ancillary 1436
administrator or other legal representative, provided that the 1437
court that appointed the resident guardian has satisfactory 1438
proof, as provided by section 2111.39 of the Revised Code, of 1439
the authority of the foreign guardian, administrator, or other 1440
legal representative to receive the moneys or properties of the 1441
nonresident ward, that the security given by the foreign 1442
guardian, administrator, or other legal representative is 1443
sufficient to protect the ward's interest or estate, and that 1444
the court considers it best for the ward or the ward's estate. 1445

Sec. 2111.39. When a foreign legal representative of a 1446
nonresident ~~ward~~minor or incompetent applies to have all or any 1447
of the moneys or property in the possession or under the control 1448
of the resident guardian of the ~~ward~~nonresident minor or 1449
incompetent paid or delivered to the foreign representative, the 1450
foreign representative shall file a petition or motion in the 1451
probate court by which the resident guardian was appointed. The 1452
resident guardian shall be given thirty days' notice of the time 1453
of hearing on the petition or motion, and the foreign 1454
representative shall produce an exemplification under the seal 1455
of the office, if there is a seal, of the proper court of the 1456
state of the foreign representative's residence containing all 1457
the entries on record in relation to the foreign 1458
representative's appointment and qualification, authenticated as 1459
required by the act of congress in those cases. Upon the 1460
hearing, the court shall make an order that it considers for the 1461
best interests of the nonresident ~~ward~~minor or ~~the nonresident-~~ 1462
~~ward's estate~~incompetent. 1463

Sec. 2111.44. ~~Applications~~Proceedings for the sale of real 1464
property by resident guardians of ~~wards who live out of this-~~ 1465
~~state~~nonresident minors or incompetents shall be made in the 1466
county in which the land is situated. If the real property is 1467
situated in two or more counties, the ~~application~~proceedings 1468
shall be ~~made~~commenced in one of the counties in which a part 1469
of it is situated. Additional ~~security that bond~~ may be ~~approved-~~ 1470
ordered by the ~~probate~~ court of the county in which the 1471
~~application is made~~ shall be ~~required from the guardian-~~ 1472
proceedings are commenced if considered necessary and in the 1473
nonresident minor's or incompetent's best interest. 1474

Sec. 2111.46. When a guardian has been appointed for a 1475
minor before the minor is over ~~fourteen~~twelve years of age, the 1476

guardian's power shall continue until the ward arrives at the 1477
age of majority, unless removed for good cause or unless the 1478
ward selects another suitable guardian. After the selection is 1479
made and approved by the probate court and the person selected 1480
is appointed and qualified, the powers of the former guardian 1481
shall cease. The former guardian's final account as guardian 1482
shall then be filed and settled in court. 1483

Upon the termination of a guardianship of the person, 1484
estate, or both of a minor before the minor reaches eighteen 1485
years of age, if a successor guardian is not appointed and if 1486
the court finds that the minor is without proper care, the court 1487
shall certify a copy of its finding together with as much of the 1488
record and any further information that the court considers 1489
necessary, or as the juvenile court may request, to the juvenile 1490
court for further proceedings. Upon that certification, the 1491
juvenile court shall have exclusive jurisdiction respecting the 1492
minor. 1493

Sec. 2111.47. (A) Except as provided in this division, for 1494
any guardianship of an incompetent, upon written request by the 1495
ward, the ward's attorney, or any interested party made at any 1496
time after the original appointment of the guardian, a hearing 1497
shall be held in accordance with section 2111.02 of the Revised 1498
Code to evaluate the continued necessity of the guardianship. 1499
Upon written request by the ward, the ward's attorney, or any 1500
interested party, the court shall conduct a minimum of one 1501
hearing under this division in the calendar year in which the 1502
guardian was appointed, and upon such written request, shall 1503
conduct a minimum of one hearing in each of the following 1504
calendar years. On its own motion or upon written request by the 1505
ward, the ward's attorney, or any interested party, the court 1506
may, in its discretion, conduct a hearing within the first one 1507

hundred twenty days after appointment of the guardian or conduct 1508
more than one hearing in a calendar year. 1509

(B) If the ward alleges competence, the burden of proving 1510
incompetence shall be upon the guardian, by clear and convincing 1511
evidence. The statement of expert evaluation filed with the 1512
application for appointment of the guardian or the statement of 1513
expert evaluation filed with the guardian's annual or biennial 1514
report, or both statements, shall satisfy the guardian's burden 1515
of proof unless contradicted by medical evidence submitted by 1516
the ward. 1517

(C) Upon reasonable notice to the guardian, to the ward, 1518
and to the person on whose application the appointment was made, 1519
and upon satisfactory proof that the necessity for the 1520
guardianship no longer exists or that the letters of appointment 1521
were improperly issued, the probate court shall order that the 1522
guardianship of an incompetent terminate and shall make an 1523
appropriate entry upon the journal. ~~Thereupon~~ Upon such entry, 1524
the guardianship shall cease, the accounts of the guardian shall 1525
be settled by the court, and the ward shall be restored to the 1526
full control of the ward's property as before the appointment. 1527
~~Such~~ The entry terminating the guardianship of an incompetent 1528
person shall have the same effect as a determination by the 1529
court that such person is competent. 1530

Sec. 2111.49. (A) (1) Subject to division (A) (3) of this 1531
section, the guardian of an incompetent person shall file a 1532
guardian's report with the court two years after the date of the 1533
issuance of the guardian's letters of appointment and biennially 1534
after that time, or at any other time upon the motion or a rule 1535
of the probate court. The report shall be in a form prescribed 1536
by the court and shall include all of the following. 1537

(a) The present address of the place of residence of the ward;	1538 1539
(b) The present address of the guardian;	1540
(c) If the place of residence of the ward is not the ward's personal home, the name of the facility at which the ward resides and the name of the person responsible for the ward's care;	1541 1542 1543 1544
(d) The approximate number of times during the period covered by the report that the guardian has had contact with the ward, the nature of those contacts, and the date that the ward was last seen by the guardian;	1545 1546 1547 1548
(e) Any major changes in the physical or mental condition of the ward observed by the guardian;	1549 1550
(f) The opinion of the guardian as to the necessity for the continuation of the guardianship;	1551 1552
(g) The opinion of the guardian as to the adequacy of the present care of the ward;	1553 1554
(h) The date that the ward was last examined or otherwise seen by a physician and the purpose of that visit;	1555 1556
(i) A statement by a licensed physician, licensed clinical psychologist, licensed independent social worker, licensed professional clinical counselor, or developmental disability team that or other qualified person who has evaluated or examined the ward within three months prior to the date of the report as to the need for continuing the guardianship. <u>The court may waive the requirement of filing further biennial statements of expert evaluation if, in the opinion of the qualified evaluator, it is reasonably certain that the ward's condition</u>	1557 1558 1559 1560 1561 1562 1563 1564 1565

will not improve and that the necessity for guardianship will 1566
continue to exist. 1567

(2) The court shall review a report filed pursuant to 1568
division (A)(1) of this section to determine if a continued 1569
necessity for the guardianship exists. The court may direct a 1570
probate court investigator to verify aspects of the report. 1571

(3) Division (A)(1) of this section applies to guardians 1572
appointed prior to, as well as on or after, the effective date 1573
of this section. A guardian appointed prior to that date shall 1574
file the first report in accordance with any applicable court 1575
rule or motion, or, in the absence of such a rule or motion, 1576
upon the next occurring date on which a report would have been 1577
due if division (A)(1) of this section had been in effect on the 1578
date of appointment as guardian, and shall file all subsequently 1579
due reports biennially after that time. 1580

(B) If, upon review of any report required by division (A) 1581
(1) of this section, the court finds that it is necessary to 1582
intervene in a guardianship, the court shall take any action 1583
that it determines is necessary, including, but not limited to, 1584
terminating or modifying the guardianship. 1585

~~(C) Except as provided in this division, for any~~ 1586
~~guardianship, upon written request by the ward, the ward's~~ 1587
~~attorney, or any other interested party made at any time after~~ 1588
~~the expiration of one hundred twenty days from the date of the~~ 1589
~~original appointment of the guardian, a hearing shall be held in~~ 1590
~~accordance with section 2111.02 of the Revised Code to evaluate~~ 1591
~~the continued necessity of the guardianship. Upon written~~ 1592
~~request, the court shall conduct a minimum of one hearing under~~ 1593
~~this division in the calendar year in which the guardian was~~ 1594
~~appointed, and upon written request, shall conduct a minimum of~~ 1595

~~one hearing in each of the following calendar years. Upon its- 1596
own motion or upon written request, the court may, in its- 1597
discretion, conduct a hearing within the first one hundred- 1598
twenty days after appointment of the guardian or conduct more- 1599
than one hearing in a calendar year. If the ward alleges- 1600
competence, the burden of proving incompetence shall be upon the- 1601
applicant for guardianship or the guardian, by clear and- 1602
convincing evidence.- 1603~~

Sec. 2111.50. (A) (1) At all times, the probate court is 1604
the superior guardian of wards who are subject to its 1605
jurisdiction, and all guardians who are subject to the 1606
jurisdiction of the court shall obey all orders of the court 1607
that concern their wards or guardianships. 1608

(2) (a) Subject to divisions (A) (2) (b) and (c) of this 1609
section, the control of a guardian over the person, the estate, 1610
or both of the guardian's ward is limited to the authority that 1611
is granted to the guardian by the Revised Code, relevant 1612
decisions of the courts of this state, and orders or rules of 1613
the probate court. 1614

(b) Except for the powers specified in division (E) of 1615
this section and unless otherwise provided in or inconsistent 1616
with another section of the Revised Code, the probate court may 1617
confer upon a guardian any power that this section grants to the 1618
probate court in connection with wards. 1619

(c) For good cause shown, the probate court may limit or 1620
deny, by order or rule, any power that is granted to a guardian 1621
by a section of the Revised Code or relevant decisions of the 1622
courts of this state. 1623

(B) In connection with any person whom the probate court 1624

has found to be an incompetent or a minor subject to 1625
guardianship and for whom the court has appointed a guardian, 1626
the court has, subject to divisions (C) to (E) of this section, 1627
all the powers that relate to the person and estate of the ward 1628
and that the ward could exercise if present and not a minor or 1629
under a disability, except the power to make or revoke a will. 1630
These powers include, but are not limited to, the power to do 1631
any of the following: 1632

(1) Convey or release the present, contingent, or 1633
expectant interests in real or personal property of the ward, 1634
including, but not limited to, dower and any right of 1635
survivorship incident to a survivorship tenancy, joint tenancy, 1636
or tenancy by the entireties; 1637

(2) Exercise or release powers as a trustee, personal 1638
representative, custodian for a minor, guardian, or donee of a 1639
power of appointment; 1640

(3) Enter into contracts, or create revocable trusts of 1641
property of the estate of the ward, that may not extend beyond 1642
the minority, disability, or life of the ward; 1643

(4) Exercise options to purchase securities or other 1644
property; 1645

(5) Exercise rights to elect options under annuities and 1646
insurance policies, and to surrender an annuity or insurance 1647
policy for its cash value; 1648

(6) Exercise the right to an elective share in the estate 1649
of the deceased spouse of the ward pursuant to section 2106.08 1650
of the Revised Code; 1651

(7) Make gifts, in trust or otherwise, to relatives of the 1652
ward and, consistent with any prior pattern of the ward of 1653

giving to charities or of providing support for friends, to 1654
charities and friends of the ward. 1655

(C) Except for the powers specified in division (D) of 1656
this section, all powers of the probate court that are specified 1657
in this chapter and that relate either to any person whom it has 1658
found to be an incompetent or a minor subject to guardianship 1659
and for whom it has appointed a guardian and all powers of a 1660
guardian that relate to the guardian's ward or guardianship as 1661
described in division (A) (2) of this section, shall be exercised 1662
in the best interest, as determined in the court's or guardian's 1663
judgment, of the following: 1664

(1) The ward whom the probate court has found to be an 1665
incompetent or a minor subject to guardianship; 1666

(2) The dependents of the ward; 1667

(3) The members of the household of the ward. 1668

(D) If the court is to exercise or direct the exercise, 1669
pursuant to division (B) of this section, of the power to make 1670
gifts in trust or otherwise, the following conditions shall 1671
apply: 1672

(1) The exercise of the particular power shall not impair 1673
the financial ability of the estate of the ward whom the probate 1674
court has found to be an incompetent or a minor subject to 1675
guardianship and for whom the court has appointed a guardian, to 1676
provide for the ward's foreseeable needs for maintenance and 1677
care; 1678

(2) If applicable, the court shall consider any of the 1679
following: 1680

(a) The estate, income, and other tax advantages of the 1681

exercise of a particular power to the estate of a ward whom the probate court has found to be an incompetent or a minor subject to guardianship and for whom the court has appointed a guardian; (b) Any pattern of giving of, or any pattern of support provided by, the ward prior to the ward's incompetence; (c) The disposition of property made by the ward's will; (d) If there is no knowledge of a will of the ward, the ward's prospective heirs; (e) Any relevant and trustworthy statements of the ward, whether established by hearsay or other evidence. (E) (1) The probate court shall cause notice as described in division (E) (2) of this section to be given and a hearing to be conducted prior to its exercise or direction of the exercise of any of the following powers pursuant to division (B) of this section: (a) The exercise or release of powers as a donee of a power of appointment; (b) ~~Unless~~ If the amount of the gift is ~~no~~ more than one thousand dollars, the making of a gift, in trust or otherwise. (2) The notice required by division (E) (1) of this section shall be given to the following persons: (a) Unless a guardian of a ward has applied for the exercise of a power specified in division (E) (1) of this section, to the guardian; (b) To the ward whom the probate court has found to be an incompetent or a minor subject to guardianship; (c) If known, to a guardian who applied for the exercise

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of a power specified in division (E) (1) of this section, to the 1709
prospective heirs of the ward whom the probate court has found 1710
to be an incompetent or a minor subject to guardianship under 1711
section 2105.06 of the Revised Code, and any person who has a 1712
legal interest in property that may be divested or limited as 1713
the result of the exercise of a power specified in division (E) 1714
(1) of this section; 1715

(d) To any other persons the court orders. 1716

(F) When considering any question related to, and issuing 1717
orders for, medical or surgical care or treatment of 1718
incompetents or minors subject to guardianship, the probate 1719
court has full parens patriae powers unless otherwise provided 1720
by a section of the Revised Code. 1721

Sec. 2303.201. (A) (1) The court of common pleas of any 1722
county may determine that for the efficient operation of the 1723
court additional funds are required to computerize the court, to 1724
make available computerized legal research services, or to do 1725
both. Upon making a determination that additional funds are 1726
required for either or both of those purposes, the court shall 1727
authorize and direct the clerk of the court of common pleas to 1728
charge one additional fee, not to exceed six dollars, on the 1729
filing of each cause of action or appeal under divisions (A), 1730
(Q), and (U) of section 2303.20 of the Revised Code. 1731

(2) All fees collected under division (A) (1) of this 1732
section shall be paid to the county treasurer. The treasurer 1733
shall place the funds from the fees in a separate fund to be 1734
disbursed either upon an order of the court, subject to an 1735
appropriation by the board of county commissioners, or upon an 1736
order of the court, subject to the court making an annual report 1737
available to the public listing the use of all such funds, in an 1738

amount not greater than the actual cost to the court of 1739
procuring and maintaining computerization of the court, 1740
computerized legal research services, or both. 1741

(3) If the court determines that the funds in the fund 1742
described in division (A) (2) of this section are more than 1743
sufficient to satisfy the purpose for which the additional fee 1744
described in division (A) (1) of this section was imposed, the 1745
court may declare a surplus in the fund and, subject to an 1746
appropriation by the board of county commissioners, expend those 1747
surplus funds, or upon an order of the court, subject to the 1748
court making an annual report available to the public listing 1749
the use of all such funds, expend those surplus funds, for other 1750
appropriate technological expenses of the court. 1751

(B) (1) The court of common pleas of any county may 1752
determine that, for the efficient operation of the court, 1753
additional funds are required to make technological advances in 1754
or to computerize the office of the clerk of the court of common 1755
pleas and, upon that determination, authorize and direct the 1756
clerk of the court of common pleas to charge an additional fee, 1757
not to exceed twenty dollars, on the filing of each cause of 1758
action or appeal, on the filing, docketing, and endorsing of 1759
each certificate of judgment, or on the docketing and indexing 1760
of each aid in execution or petition to vacate, revive, or 1761
modify a judgment under divisions (A), (P), (Q), (T), and (U) of 1762
section 2303.20 of the Revised Code and not to exceed one dollar 1763
each for the services described in divisions (B), (C), (D), (F), 1764
(H), and (L) of section 2303.20 of the Revised Code. Subject to 1765
division (B) (2) of this section, all moneys collected under 1766
division (B) (1) of this section shall be paid to the county 1767
treasurer to be disbursed, upon an order of the court of common 1768
pleas and subject to appropriation by the board of county 1769

commissioners, in an amount no greater than the actual cost to 1770
the court of procuring and maintaining technology and computer 1771
systems for the office of the clerk of the court of common 1772
pleas. 1773

(2) If the court of common pleas of a county makes the 1774
determination described in division (B)(1) of this section, the 1775
board of county commissioners of that county may issue one or 1776
more general obligation bonds for the purpose of procuring and 1777
maintaining the technology and computer systems for the office 1778
of the clerk of the court of common pleas. In addition to the 1779
purposes stated in division (B)(1) of this section for which the 1780
moneys collected under that division may be expended, the moneys 1781
additionally may be expended to pay debt charges on and 1782
financing costs related to any general obligation bonds issued 1783
pursuant to division (B)(2) of this section as they become due. 1784
General obligation bonds issued pursuant to division (B)(2) of 1785
this section are Chapter 133. securities. 1786

(C) The court of common pleas shall collect the sum of 1787
twenty-six dollars as additional filing fees in each new civil 1788
action or proceeding for the charitable public purpose of 1789
providing financial assistance to legal aid societies that 1790
operate within the state and to support the office of the state 1791
public defender. This division does not apply to a juvenile 1792
division of a court of common pleas, except that an additional 1793
filing fee of fifteen dollars shall apply to custody, 1794
visitation, and parentage actions; to a probate division of a 1795
court of common pleas, except that the additional filing fees 1796
shall apply to name change, guardianship, adoption, and 1797
decedents' estate proceedings; or to an execution on a judgment, 1798
proceeding in aid of execution, or other post-judgment 1799
proceeding arising out of a civil action. The filing fees 1800

required to be collected under this division shall be in 1801
addition to any other filing fees imposed in the action or 1802
proceeding and shall be collected at the time of the filing of 1803
the action or proceeding. The court shall not waive the payment 1804
of the additional filing fees in a new civil action or 1805
proceeding unless the court waives the advanced payment of all 1806
filing fees in the action or proceeding. All such moneys 1807
collected during a month except for an amount equal to up to one 1808
per cent of those moneys retained to cover administrative costs 1809
shall be transmitted on or before the twentieth day of the 1810
following month by the clerk of the court to the treasurer of 1811
state in a manner prescribed by the treasurer of state or by the 1812
Ohio access to justice foundation. The treasurer of state shall 1813
deposit four per cent of the funds collected under this division 1814
to the credit of the civil case filing fee fund established 1815
under section 120.07 of the Revised Code and ninety-six per cent 1816
of the funds collected under this division to the credit of the 1817
legal aid fund established under section 120.52 of the Revised 1818
Code. 1819

The court may retain up to one per cent of the moneys it 1820
collects under this division to cover administrative costs, 1821
including the hiring of any additional personnel necessary to 1822
implement this division. If the court fails to transmit to the 1823
treasurer of state the moneys the court collects under this 1824
division in a manner prescribed by the treasurer of state or by 1825
the Ohio access to justice foundation, the court shall forfeit 1826
the moneys the court retains under this division to cover 1827
administrative costs, including the hiring of any additional 1828
personnel necessary to implement this division, and shall 1829
transmit to the treasurer of state all moneys collected under 1830
this division, including the forfeited amount retained for 1831

administrative costs, for deposit in the legal aid fund. 1832

(D) On and after the thirtieth day after December 9, 1994, 1833
the court of common pleas shall collect the sum of thirty-two 1834
dollars as additional filing fees in each new action or 1835
proceeding for annulment, divorce, or dissolution of marriage 1836
for the purpose of funding shelters for victims of domestic 1837
violence pursuant to sections 3113.35 to 3113.39 of the Revised 1838
Code. The filing fees required to be collected under this 1839
division shall be in addition to any other filing fees imposed 1840
in the action or proceeding and shall be collected at the time 1841
of the filing of the action or proceeding. The court shall not 1842
waive the payment of the additional filing fees in a new action 1843
or proceeding for annulment, divorce, or dissolution of marriage 1844
unless the court waives the advanced payment of all filing fees 1845
in the action or proceeding. On or before the twentieth day of 1846
each month, all moneys collected during the immediately 1847
preceding month pursuant to this division shall be deposited by 1848
the clerk of the court into the county treasury in the special 1849
fund used for deposit of additional marriage license fees as 1850
described in section 3113.34 of the Revised Code. Upon their 1851
deposit into the fund, the moneys shall be retained in the fund 1852
and expended only as described in section 3113.34 of the Revised 1853
Code. 1854

(E) (1) The court of common pleas may determine that, for 1855
the efficient operation of the court, additional funds are 1856
necessary to acquire and pay for special projects of the court, 1857
including, but not limited to, the acquisition of additional 1858
facilities or the rehabilitation of existing facilities, the 1859
acquisition of equipment, the hiring and training of staff, 1860
community service programs, mediation or dispute resolution 1861
services, the employment of legal counsel, the employment of 1862

magistrates, the training and education of judges, acting 1863
judges, and magistrates, and other related services. Upon that 1864
determination, the court by rule may charge a fee, in addition 1865
to all other court costs, on the filing of each criminal cause, 1866
civil action or proceeding, or judgment by confession. Moneys 1867
used to employ legal counsel pursuant to section 309.09 of the 1868
Revised Code shall be reimbursed by the county general fund. 1869

If the court of common pleas offers or requires a special 1870
program or additional services in cases of a specific type, the 1871
court by rule may assess an additional charge in a case of that 1872
type, over and above court costs, to cover the special program 1873
or service. The court shall adjust the special assessment 1874
periodically, but not retroactively, so that the amount assessed 1875
in those cases does not exceed the actual cost of providing the 1876
service or program. 1877

All moneys collected under division (E) of this section 1878
shall be paid to the county treasurer for deposit into either a 1879
general special projects fund or a fund established for a 1880
specific special project. Moneys from a fund of that nature 1881
shall be disbursed upon an order of the court, subject to an 1882
appropriation by the board of county commissioners, in an amount 1883
no greater than the actual cost to the court of a project. If a 1884
specific fund is terminated because of the discontinuance of a 1885
program or service established under division (E) of this 1886
section, the court may order, subject to an appropriation by the 1887
board of county commissioners, that moneys remaining in the fund 1888
be transferred to an account established under this division for 1889
a similar purpose. 1890

(2) As used in division (E) of this section: 1891

(a) "Criminal cause" means a charge alleging the violation 1892

of a statute or ordinance, or subsection of a statute or 1893
ordinance, that requires a separate finding of fact or a 1894
separate plea before disposition and of which the defendant may 1895
be found guilty, whether filed as part of a multiple charge on a 1896
single summons, citation, or complaint or as a separate charge 1897
on a single summons, citation, or complaint. "Criminal cause" 1898
does not include separate violations of the same statute or 1899
ordinance, or subsection of the same statute or ordinance, 1900
unless each charge is filed on a separate summons, citation, or 1901
complaint. 1902

(b) "Civil action or proceeding" means any civil 1903
litigation that must be determined by judgment entry. 1904

Section 2. That existing sections 305.14, 309.09, 309.10, 1905
1545.07, 2101.19, 2109.21, 2111.01, 2111.011, 2111.02, 2111.021, 1906
2111.022, 2111.03, 2111.031, 2111.04, 2111.041, 2111.05, 1907
2111.06, 2111.08, 2111.091, 2111.12, 2111.13, 2111.131, 2111.18, 1908
2111.181, 2111.19, 2111.20, 2111.23, 2111.26, 2111.33, 2111.37, 1909
2111.38, 2111.39, 2111.44, 2111.46, 2111.47, 2111.49, 2111.50, 1910
and 2303.201 of the Revised Code are hereby repealed. 1911

Section 3. That sections 2111.07, 2111.15, 2111.34, 1912
2111.35, 2111.36, and 2111.45 of the Revised Code are hereby 1913
repealed. 1914

Section 4. Section 2109.21 of the Revised Code is 1915
presented in this act as a composite of the section as amended 1916
by both S.B. 117 and S.B. 124 of the 129th General Assembly. The 1917
General Assembly, applying the principle stated in division (B) 1918
of section 1.52 of the Revised Code that amendments are to be 1919
harmonized if reasonably capable of simultaneous operation, 1920
finds that the composite is the resulting version of the section 1921
in effect prior to the effective date of the section as 1922

presented in this act.	1923
Section 2111.12 of the Revised Code is presented in this	1924
act as a composite of the section as amended by both S.B. 117	1925
and S.B. 124 of the 129th General Assembly. The General	1926
Assembly, applying the principle stated in division (B) of	1927
section 1.52 of the Revised Code that amendments are to be	1928
harmonized if reasonably capable of simultaneous operation,	1929
finds that the composite is the resulting version of the section	1930
in effect prior to the effective date of the section as	1931
presented in this act.	1932